

FILED BY                      D.C.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

05 JUL -6 PM 3: 27

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

MARILYN JOHNSON, et al.,

Plaintiffs,

vs.

CITY OF MEMPHIS,

Defendant.

Case Nos: 00-2608 D P  
04-2017 D P

FLORENCE BILLINGSLEY, et al.,

Plaintiffs,

vs.

CITY OF MEMPHIS,

Defendant.

Case No.: 04-2013 D A

ORDER ESTABLISHING ORDER OF PROOF FOR TRIAL PURPOSES

The parties in this case appeared before the Court on July 1, 2005, for a scheduling conference. Among other matters, the parties argued regarding the order of proof and acknowledged certain burden shifting standards inherent in the trial. It appears that the Court has ruled on a number of issues in summary judgment orders which may shift the burden of persuasion or the burden of production in certain instances.

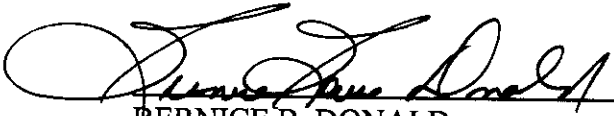
Having considered the case matter as a whole, and considering that this is a non-jury trial, the Court hereby orders that the plaintiffs will present their proof first, followed by a presentation

This document entered on the docket sheet in compliance  
with Rule 58 and/or 79(a) FRCP on 7/6/05

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of the defendant's proof, except that on the matter of expert proof, the plaintiffs may present its rebuttal expert proof after the defendant has presented its case, including its expert witnesses. Thus, the order of proof will proceed as a traditional trial with the plaintiff presenting its case in chief first, followed by the defendant's presentation of its case in chief, followed by the plaintiff's rebuttal proof. The Court will sort out and address the shifting burdens as it prepares its merits decision.

IT IS SO ORDERED 6<sup>th</sup> day of July, 2005.

  
BERNICE B. DONALD  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

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Honorable Bernice Donald  
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